

SECOND REGULAR SESSION

# HOUSE BILL NO. 2062

## 91ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES HOSMER, BRITT AND GASKILL (Co-sponsors).

Read 1<sup>st</sup> time February 27, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4800L.011

---

### AN ACT

To repeal sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, RSMo, and to enact in lieu thereof six new sections relating to restricted driving privilege.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 302.010, 302.304, 302.525, 302.535, 302.540, and 577.041, RSMo,  
2 are repealed and six new sections enacted in lieu thereof, to be known as sections 302.010,  
3 302.304, 302.525, 302.535, 302.540, and 577.041, to read as follows:

302.010. Except where otherwise provided, when used in this chapter, the following  
2 words and phrases mean:

3 (1) "Circuit court", each circuit court in the state;

4 (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying  
5 freight and merchandise, or more than fifteen passengers;

6 (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to  
7 secure a defendant's appearance in court, which forfeiture has not been vacated, shall be  
8 equivalent to a conviction, except that when any conviction as a result of which points are  
9 assessed pursuant to section 302.302 is appealed, the term "conviction" means the original  
10 judgment of conviction for the purpose of determining the assessment of points, and the date of  
11 final judgment affirming the conviction shall be the date determining the beginning of any  
12 license suspension or revocation pursuant to section 302.304;

13 (4) "Director", the director of revenue acting directly or through the director's authorized  
14 officers and agents;

15 (5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 for drawing plows, mowing machines and other implements of husbandry;

17 (6) "Highway", any public thoroughfare for vehicles, including state roads, county roads  
18 and public streets, avenues, boulevards, parkways, or alleys in any municipality;

19 (7) "Incompetent to drive a motor vehicle", a person who has become physically  
20 incapable of meeting the prescribed requirements of an examination for an operator's license, or  
21 who has been adjudged by a probate division of the circuit court in a capacity hearing of being  
22 incapacitated;

23 (8) "License", a license issued by a state to a person which authorizes a person to operate  
24 a motor vehicle;

25 (9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks  
26 except motorized bicycles, as defined in section 307.180, RSMo;

27 (10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition  
28 shall not include motorized bicycles as defined in section 301.010, RSMo;

29 (11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle  
30 operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

31 (12) "Moving violation", that character of traffic violation where at the time of violation  
32 the motor vehicle involved is in motion, except that the term does not include the driving of a  
33 motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170  
34 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;

35 (13) "Municipal court", every division of the circuit court having original jurisdiction  
36 to try persons for violations of city ordinances;

37 (14) "Nonresident", every person who is not a resident of this state;

38 (15) "Operator", every person who is in actual physical control of a motor vehicle upon  
39 a highway;

40 (16) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is  
41 the subject of an agreement for the conditional sale or lease thereof with the right of purchase  
42 upon performance of the conditions stated in the agreement and with an immediate right of  
43 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle  
44 is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed  
45 the owner for the purpose of sections 302.010 to 302.540;

46 (17) "Record" includes, but is not limited to, papers, documents, facsimile information,  
47 microphotographic process, electronically generated or electronically recorded information,  
48 digitized images, deposited or filed with the department of revenue;

49 (18) **"Restricted driving privilege", a driving privilege issued by the director of**  
50 **revenue following a suspension of driving privileges for the limited purpose of driving in**  
51 **connection with the driver's business, occupation, employment, formal program of**

52 **secondary, postsecondary or higher education, or for an alcohol education or treatment**  
53 **program.**

54 (19) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle,  
55 either publicly or privately owned, used to transport students to and from school, or to transport  
56 pupils properly chaperoned to and from any place within the state for educational purposes. The  
57 term "school bus" shall not include a bus operated by a public utility, municipal corporation or  
58 common carrier authorized to conduct local or interstate transportation of passengers when such  
59 bus is not traveling a specific school bus route but is:

60 (a) On a regularly scheduled route for the transportation of fare-paying passengers; or

61 (b) Furnishing charter service for the transportation of persons enrolled as students on  
62 field trips or other special trips or in connection with other special events;

63 [(19)] (20) "School bus operator", an operator who operates a school bus as defined in  
64 subdivision (18) of this section in the transportation of any school children and who receives  
65 compensation for such service. The term "school bus operator" shall not include any person who  
66 transports school children as an incident to employment with a school or school district, such as  
67 a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under  
68 contract with or employed by a school or school district as a school bus operator;

69 [(20)] (21) "Signature", any method determined by the director of revenue for the  
70 signing, subscribing or verifying of a record, report, application, driver's license, or other related  
71 document that shall have the same validity and consequences as the actual signing by the person  
72 providing the record, report, application, driver's license or related document;

73 [(21)] (22) "Substance abuse traffic offender program", a program certified by the  
74 division of alcohol and drug abuse of the department of mental health to provide education or  
75 rehabilitation services pursuant to a professional assessment screening to identify the individual  
76 needs of the person who has been referred to the program as the result of an alcohol or drug  
77 related traffic offense. Successful completion of such a program includes participation in any  
78 education or rehabilitation program required to meet the needs identified in the assessment  
79 screening. The assignment recommendations based upon such assessment shall be subject to  
80 judicial review as provided in subsection 13 of section 302.304 and subsections 1 and 5 of  
81 section 302.540;

82 [(22)] (23) "Vehicle", any mechanical device on wheels, designed primarily for use, or  
83 used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human  
84 power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized  
85 wheelchairs operated by handicapped persons.

302.304. 1. The director shall notify by ordinary mail any operator of the point value  
2 charged against the operator's record when the record shows four or more points have been

3 accumulated in a twelve-month period.

4       2. In an action to suspend or revoke a license or driving privilege under this section  
5 points shall be accumulated on the date of conviction. No case file of any conviction for a  
6 driving violation for which points may be assessed pursuant to section 302.302 may be closed  
7 until such time as a copy of the record of such conviction is forwarded to the department of  
8 revenue.

9       3. The director shall suspend the license and driving privileges of any person whose  
10 driving record shows the driver has accumulated eight points in eighteen months.

11       4. The license and driving privilege of any person whose license and driving privilege  
12 have been suspended under the provisions of sections 302.010 to 302.540 except those persons  
13 whose license and driving privilege have been suspended under the provisions of subdivision (8)  
14 of subsection 1 of section 302.302 or has accumulated sufficient points together with a  
15 conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of  
16 financial responsibility with the department of revenue, in accordance with chapter 303, RSMo,  
17 and is otherwise eligible, shall be reinstated as follows:

18       (1) In the case of an initial suspension, thirty days after the effective date of the  
19 suspension;

20       (2) In the case of a second suspension, sixty days after the effective date of the  
21 suspension;

22       (3) In the case of the third and subsequent suspensions, ninety days after the effective  
23 date of the suspension.

24

25 Unless proof of financial responsibility is filed with the department of revenue, a suspension  
26 shall continue in effect for two years from its effective date.

27       5. The period of suspension of the driver's license and driving privilege of any person  
28 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has  
29 accumulated sufficient points together with a conviction under subdivision (10) of subsection  
30 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving  
31 privilege [issued by the director of revenue for the limited purpose of driving between a  
32 residence and a place of employment, or to and from an alcohol education or treatment program,  
33 or for both between a residence and a place of employment and to and from such a program] **as**  
34 **defined in section 302.010.** Upon completion of such period of restricted driving privilege,  
35 upon compliance with other requirements of law and upon filing of proof of financial  
36 responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license  
37 and driving privilege shall be reinstated.

38       6. If the person fails to maintain proof of financial responsibility in accordance with

39 chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

40         7. The director shall revoke the license and driving privilege of any person when the  
41 person's driving record shows such person has accumulated twelve points in twelve months or  
42 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation  
43 period of any person whose license and driving privilege have been revoked under the provisions  
44 of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the  
45 department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall  
46 be terminated by a notice from the director of revenue after one year from the effective date of  
47 the revocation. Unless proof of financial responsibility is filed with the department of revenue,  
48 except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for  
49 a period of two years from its effective date. If the person fails to maintain proof of financial  
50 responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege  
51 shall be rerevoked. Any person whose license and driving privilege have been revoked under  
52 the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of  
53 the revocation from the director, pass the complete driver examination and apply for a new  
54 license before again operating a motor vehicle upon the highways of this state.

55         8. If, prior to conviction for an offense that would require suspension or revocation of  
56 a person's license under the provisions of this section, the person's total points accumulated are  
57 reduced, pursuant to the provisions of section 302.306, below the number of points required for  
58 suspension or revocation pursuant to the provisions of this section, then the person's license shall  
59 not be suspended or revoked until the necessary points are again obtained and accumulated.

60         9. If any person shall neglect or refuse to surrender the person's license, as provided  
61 herein, the director shall direct the state highway patrol or any peace or police officer to secure  
62 possession thereof and return it to the director.

63         10. Upon the issuance of a reinstatement or termination notice after a suspension or  
64 revocation of any person's license and driving privilege under the provisions of sections 302.010  
65 to 302.540, the accumulated point value shall be reduced to four points, except that the points  
66 of any person serving as a member of the armed forces of the United States outside the limits of  
67 the United States during a period of suspension or revocation shall be reduced to zero upon the  
68 date of the reinstatement or termination of notice. It shall be the responsibility of such member  
69 of the armed forces to submit copies of official orders to the director of revenue to substantiate  
70 such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary  
71 notwithstanding, the effective date of the four points remaining on the record upon reinstatement  
72 or termination shall be the date of the reinstatement or termination notice.

73         11. No credit toward reduction of points shall be given during periods of suspension or  
74 revocation or any period of driving under a [hardship] **limited** driving privilege granted by a

75 court **or the director of revenue.**

76       12. Any person or nonresident whose license or privilege to operate a motor vehicle in  
77 this state has been suspended or revoked under this or any other law shall, before having the  
78 license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee  
79 of twenty dollars which shall be in addition to all other fees provided by law.

80       13. Notwithstanding any other provision of law to the contrary, if after two years from  
81 the effective date of any suspension or revocation issued under this chapter, the person or  
82 nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such  
83 license or privilege to operate a motor vehicle in this state.

84       14. No person who has had a license to operate a motor vehicle suspended or revoked  
85 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of  
86 subsection 1 of section 302.302 shall have that license reinstated until such person has  
87 participated in and successfully completed a substance abuse traffic offender program defined  
88 in section 302.010, or a program determined to be comparable by the department. Assignment  
89 recommendations, based upon the needs assessment as described in subdivision (21) of section  
90 302.010, shall be delivered in writing to the person with written notice that the person is entitled  
91 to have such assignment recommendations reviewed by the court if the person objects to the  
92 recommendations. The person may file a motion in the associate division of the circuit court **of**  
93 **the county in which such assignment was given**, on a printed form provided by the state courts  
94 administrator, to have the court hear and determine such motion pursuant to the provisions of  
95 chapter 517, RSMo. The motion shall name the person or entity making the needs assessment  
96 as the respondent and a copy of the motion shall be served upon the respondent in any manner  
97 allowed by law. Upon hearing the motion, the court may modify or waive any assignment  
98 recommendation that the court determines to be unwarranted based upon a review of the needs  
99 assessment, the person's driving record, the circumstances surrounding the offense, and the  
100 likelihood of the person committing a like offense in the future, except that the court may modify  
101 but may not waive the assignment to an education or rehabilitation program of a person  
102 determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a  
103 person determined to have operated a motor vehicle with fifteen-hundredths of one percent or  
104 more by weight in such person's blood. Compliance with the court determination of the motion  
105 shall satisfy the provisions of this section for the purpose of reinstating such person's license to  
106 operate a motor vehicle. The respondent's personal appearance at any hearing conducted  
107 pursuant to this subsection shall not be necessary unless directed by the court.

108       15. The fees for the program authorized in subsection 14 of this section, or a portion  
109 thereof to be determined by the department of mental health, shall be paid by the person enrolled  
110 in the program. Any person who is enrolled in the program shall pay, in addition to any fee

111 charged for the program, a supplemental fee of sixty dollars. The administrator of the program  
112 shall remit to the division of alcohol and drug abuse of the department of mental health the  
113 supplemental fee for all persons enrolled in the program, less two percent for administrative  
114 costs. The supplemental fees received by the department of mental health pursuant to this  
115 section shall be deposited in the mental health earnings fund which is created in section 630.053,  
116 RSMo.

302.525. 1. The license suspension or revocation shall become effective fifteen days  
2 after the subject person has received the notice of suspension or revocation as provided in section  
3 302.520, or is deemed to have received the notice of suspension or revocation by mail as  
4 provided in section 302.515. If a request for a hearing is received by or postmarked to the  
5 department within that fifteen-day period, the effective date of the suspension or revocation shall  
6 be stayed until a final order is issued following the hearing; provided, that any delay in the  
7 hearing which is caused or requested by the subject person or counsel representing that person  
8 without good cause shown shall not result in a stay of the suspension or revocation during the  
9 period of delay.

10 2. The period of license suspension or revocation under this section shall be as follows:

11 (1) If the person's driving record shows no prior alcohol related enforcement contacts  
12 during the immediately preceding five years, the period of suspension shall be thirty days after  
13 the effective date of suspension, followed by a sixty-day period of restricted driving privilege **as**  
14 **defined in section 302.010 and** issued by the director of revenue [for the limited purpose of  
15 driving in connection with the person's business, occupation, or employment, and to and from  
16 an alcohol education or treatment program]. The restricted driving privilege shall not be issued  
17 until he or she has filed proof of financial responsibility with the department of revenue, in  
18 accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall restricted driving  
19 privileges be issued pursuant to this section or section 302.535 until the person has completed  
20 the first thirty days of a suspension under this section;

21 (2) The period of revocation shall be one year if the person's driving record shows one  
22 or more prior alcohol related enforcement contacts during the immediately preceding five years.

23 3. For purposes of this section, "alcohol related enforcement contacts" shall include any  
24 suspension or revocation under sections 302.500 to 302.540, any suspension or revocation  
25 entered in this or any other state for a refusal to submit to chemical testing under an implied  
26 consent law, and any conviction in this or any other state for a violation which involves driving  
27 a vehicle while having an unlawful alcohol concentration.

28 4. Where a license is suspended or revoked under this section and the person is also  
29 convicted on charges arising out of the same occurrence for a violation of section 577.010 or  
30 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving

31 while intoxicated or alcohol related traffic offense, both the suspension or revocation under this  
32 section and any other suspension or revocation [under this chapter] **arising from such**  
33 **convictions** shall be imposed, but the period of suspension or revocation under sections 302.500  
34 to 302.540 shall be credited against any other suspension or revocation [imposed under this  
35 chapter] **arising from such convictions**, and the total period of suspension or revocation shall  
36 not exceed the longer of the two suspension or revocation periods.

302.535. 1. Any person aggrieved by a decision of the department may file a petition  
2 for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the  
3 evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not  
4 as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be  
5 filed in the circuit court of the county where the arrest occurred. The case shall be decided by  
6 the judge sitting without a jury. Until January 1, 2002, the presiding judge of the circuit court  
7 may assign a traffic judge, pursuant to section 479.500, RSMo 1994, a circuit judge or an  
8 associate circuit judge to hear such petition. After January 1, 2002, pursuant to local court rule  
9 pursuant to article V, section 15 of the Missouri Constitution, the case may be assigned to a  
10 circuit judge or an associate circuit judge, or to a traffic judge pursuant to section 479.500,  
11 RSMo.

12 2. The filing of a petition for trial de novo shall not result in a stay of the suspension or  
13 revocation order. [But upon the filing of such petition, a restricted driving privilege for the  
14 limited purpose of driving in connection with the petitioner's business, occupation, employment,  
15 or formal program of secondary, postsecondary or higher education shall be issued by the  
16 department] **A restricted driving privilege as defined in section 302.010 shall be issued in**  
17 **accordance with subsection 2 of section 302.525**, if the person's driving record shows no prior  
18 alcohol-related enforcement contact during the immediately preceding five years. Such [limited]  
19 **restricted** driving privilege shall terminate on the date of the disposition of the petition for trial  
20 de novo.

21 3. In addition to the [limited] **restricted** driving privilege as permitted in subsection 2  
22 of this section, the department may upon the filing of a petition for trial de novo issue a restricted  
23 driving privilege [for the limited purpose of driving in connection with the petitioner's business,  
24 occupation, employment, or formal program of secondary, postsecondary or higher education]  
25 **as defined in section 302.010**. In determining whether to issue such a restrictive driving  
26 privilege, the department shall consider the number and the seriousness of prior convictions and  
27 the entire driving record of the driver.

28 4. Such time of restricted driving privilege pending disposition of trial de novo shall be  
29 counted toward any time of restricted driving privilege imposed pursuant to section 302.525.  
30 Nothing in this subsection shall be construed to prevent a person from maintaining his restricted

31 driving privilege for an additional sixty days in order to meet the conditions imposed by section  
32 302.540 for reinstating a person's driver's license.

302.540. 1. No person who has had a license to operate a motor vehicle suspended or  
2 revoked under the provisions of sections 302.500 to 302.540 shall have that license reinstated  
3 until such person has participated in and successfully completed a substance abuse traffic  
4 offender program defined in section 302.010, or a program determined to be comparable by the  
5 department. Assignment recommendations, based upon the needs assessment as described in  
6 subdivision (21) of section 302.010, shall be delivered in writing to the person with written  
7 notice that the person is entitled to have such assignment recommendations reviewed by the court  
8 if the person objects to the recommendations. The person may file a motion in the associate  
9 division of the circuit court **of the county in which such assignment was given**, on a printed  
10 form provided by the state courts administrator, to have the court hear and determine such  
11 motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or  
12 entity making the needs assessment as the respondent and a copy of the motion shall be served  
13 upon the respondent in any manner allowed by law. Upon hearing the motion, the court may  
14 modify or waive any assignment recommendation that the court determines to be unwarranted  
15 based upon a review of the needs assessment, the person's driving record, the circumstances  
16 surrounding the offense, and the likelihood of the person committing a like offense in the future,  
17 except that the court may modify but may not waive the assignment to an education or  
18 rehabilitation program of a person determined to be a prior or persistent offender as defined in  
19 section 577.023, RSMo, or of a person determined to have operated a motor vehicle with  
20 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with  
21 the court determination of the motion shall satisfy the provisions of this section for the purpose  
22 of reinstating such person's license to operate a motor vehicle. The respondent's personal  
23 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless  
24 directed by the court.

25 2. The fees for the program authorized in subsection 1 of this section, or a portion thereof  
26 to be determined by the division of alcohol and drug abuse of the department of mental health,  
27 shall be paid by the person enrolled in the program. Any person who is enrolled in the program  
28 shall pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The  
29 administrator of the program shall remit to the division of alcohol and drug abuse of the  
30 department of mental health the supplemental fee for all persons enrolled in the program, less  
31 two percent for administrative costs. The supplemental fees received by the department of  
32 mental health pursuant to this section shall be deposited in the mental health earnings fund which  
33 is created in section 630.053, RSMo.

34 3. Court-ordered participation in a substance abuse traffic offender program, pursuant

35 to section 577.049, RSMo, shall satisfy the requirements of this section if the court action arose  
36 out of the same occurrence that resulted in a person's license being administratively suspended  
37 or revoked.

38 4. The division of alcohol and drug abuse of the department of mental health may create  
39 a treatment demonstration project within existing appropriations and shall develop and certify  
40 a program to provide education or rehabilitation services for individuals determined by the  
41 division to be serious or repeat offenders. The program shall qualify as a substance abuse traffic  
42 offender program. As used in this subsection, a "serious or repeat offender" is one who was  
43 determined to have a blood alcohol content of fifteen-hundredths of one percent or more by  
44 weight while operating a motor vehicle or a prior or persistent offender as defined in section  
45 577.023, RSMo.

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision  
2 (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to  
3 any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal  
4 shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section  
5 577.010 or 577.012. The request of the officer shall include the reasons of the officer for  
6 requesting the person to submit to a test and also shall inform the person that evidence of refusal  
7 to take the test may be used against such person and that the person's license shall be  
8 immediately revoked upon refusal to take the test. If a person when requested to submit to any  
9 test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be  
10 granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the  
11 twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a  
12 refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of  
13 license revocation personally upon the person and shall take possession of any license to operate  
14 a motor vehicle issued by this state which is held by that person. The officer shall issue a  
15 temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall  
16 also give the person a notice of such person's right to file a petition for review to contest the  
17 license revocation.

18 2. The officer shall make a sworn report to the director of revenue, which shall include  
19 the following:

20 (1) That the officer has:

21 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle  
22 while in an intoxicated or drugged condition; or

23 (b) Reasonable grounds to believe that the person stopped, being under the age of  
24 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths  
25 of one percent or more by weight; or

26 (c) Reasonable grounds to believe that the person stopped, being under the age of  
27 twenty-one years, was committing a violation of the traffic laws of the state, or political  
28 subdivision of the state, and such officer has reasonable grounds to believe, after making such  
29 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

30 (2) That the person refused to submit to a chemical test;

31 (3) Whether the officer secured the license to operate a motor vehicle of the person;

32 (4) Whether the officer issued a fifteen-day temporary permit;

33 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice  
34 of the right to file a petition for review, which notices and permit may be combined in one  
35 document; and

36 (6) Any license to operate a motor vehicle which the officer has taken into possession.

37 3. Upon receipt of the officer's report, the director shall revoke the license of the person  
38 refusing to take the test for a period of one year; or if the person is a nonresident, such person's  
39 operating permit or privilege shall be revoked for one year; or if the person is a resident without  
40 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the  
41 person the issuance of a license or permit for a period of one year.

42 4. If a person's license has been revoked because of the person's refusal to submit to a  
43 chemical test, such person may petition for a hearing before a circuit or associate circuit court  
44 in the county in which the arrest or stop occurred. The person may request such court to issue  
45 an order staying the revocation until such time as the petition for review can be heard. If the  
46 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the  
47 director of revenue and shall send a copy of such order to the director. Such order shall serve  
48 as proof of the privilege to operate a motor vehicle in this state and the director shall maintain  
49 possession of the person's license to operate a motor vehicle until termination of any revocation  
50 pursuant to this section. Upon the person's request the clerk of the court shall notify the  
51 prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the  
52 director of revenue. At the hearing the court shall determine only:

53 (1) Whether or not the person was arrested or stopped;

54 (2) Whether or not the officer had:

55 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in  
56 an intoxicated or drugged condition; or

57 (b) Reasonable grounds to believe that the person stopped, being under the age of  
58 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths  
59 of one percent or more by weight; or

60 (c) Reasonable grounds to believe that the person stopped, being under the age of  
61 twenty-one years, was committing a violation of the traffic laws of the state, or political

62 subdivision of the state, and such officer had reasonable grounds to believe, after making such  
63 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

64 (3) Whether or not the person refused to submit to the test.

65 5. If the court determines any issue not to be in the affirmative, the court shall order the  
66 director to reinstate the license or permit to drive.

67 6. Requests for review as provided in this section shall go to the head of the docket of  
68 the court wherein filed.

69 7. No person who has had a license to operate a motor vehicle suspended or revoked  
70 pursuant to the provisions of this section shall have that license reinstated until such person has  
71 participated in and successfully completed a substance abuse traffic offender program defined  
72 in section 577.001, or a program determined to be comparable by the department or the court.  
73 Assignment recommendations, based upon the needs assessment as described in subdivision (21)  
74 of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the  
75 person is entitled to have such assignment recommendations reviewed by the court if the person  
76 objects to the recommendations. The person may file a motion in the associate division of the  
77 circuit court **of the county in which such assignment was given**, on a printed form provided  
78 by the state courts administrator, to have the court hear and determine such motion pursuant to  
79 the provisions of chapter 517, RSMo. The motion shall name the person or entity making the  
80 needs assessment as the respondent and a copy of the motion shall be served upon the respondent  
81 in any manner allowed by law. Upon hearing the motion, the court may modify or waive any  
82 assignment recommendation that the court determines to be unwarranted based upon a review  
83 of the needs assessment, the person's driving record, the circumstances surrounding the offense,  
84 and the likelihood of the person committing a like offense in the future, except that the court may  
85 modify but may not waive the assignment to an education or rehabilitation program of a person  
86 determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a  
87 person determined to have operated a motor vehicle with fifteen-hundredths of one percent or  
88 more by weight in such person's blood. Compliance with the court determination of the motion  
89 shall satisfy the provisions of this section for the purpose of reinstating such person's license to  
90 operate a motor vehicle. The respondent's personal appearance at any hearing conducted  
91 pursuant to this subsection shall not be necessary unless directed by the court.

92 8. The fees for the substance abuse traffic offender program, or a portion thereof to be  
93 determined by the division of alcohol and drug abuse of the department of mental health, shall  
94 be paid by the person enrolled in the program. Any person who is enrolled in the program shall  
95 pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The  
96 administrator of the program shall remit to the division of alcohol and drug abuse of the  
97 department of mental health the supplemental fee for all persons enrolled in the program, less

98 two percent for administrative costs. The supplemental fees received by the department of  
99 mental health pursuant to this section shall be deposited in the mental health earnings fund which  
100 is created in section 630.053, RSMo.